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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 SANTA ANA DIVISION

FILED  
 2009 JAN -6 AM 9:23  
 CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 SANTA ANA

CV08-08650

GAF

RCX

LICIA GUASTAFERRO, a minor, by  
 and through her guardians, KAREN and  
 RALPH GUASTAFERRO, individually,  
**Plaintiff,**

v.

ROBERT IGER, President, The Walt  
 Disney Co.;  
 THE WALT DISNEY CO., a California  
 corporation;  
 ANNE SWEENEY, President, Disney ABC  
 Television Group;  
 DISNEY ABC TELEVISION GROUP, a  
 California corporation;  
 JANICE MARINELLI, President, Disney  
 ABC Domestic Television;  
 DISNEY ABC DOMESTIC  
 TELEVISION, a California corporation;  
 KIRK SCHENCK, President, RDF Media  
 USA, Inc.; [continued on next page]

Civil Action, Case No. \_\_\_\_\_

**COMPLAINT FOR:**

- 1) INVASION OF PRIVACY-  
 COMMERCIAL MISPPROPRIATION,  
 INTRUSION UPON ANOTHER'S  
 PRIVACY, PUBLIC DISCLOSURE OF  
 PRIVATE FACTS;
- 2) INVASION OF PRIVACY - FALSE  
 LIGHT
- 3) NEGLIGENCE
- 4) FRAUD
- 5) BREACH OF FIDUCIARY DUTY
- 6) LIBEL
- 7) INJUNCTIVE RELIEF
- 8) INTENTIONAL INFLICTION OF  
 EMOTIONAL DISTRESS
- 9) NEGLIGENT INFLICTION OF  
 EMOTIONAL DISTRESS;

[Amount demanded exceeds \$ 75,000]

FILED

DEC 31 PM 2:17  
 U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 SANTA ANA

1 **RDF MEDIA USA, INC.**, a California )  
 2 Corporation, )  
 3 **RDF PRODUCERS**, )  
 4 Stef Wagstaffe, )  
 5 Michael Davies, )  
 6 Stephen Lambert, )  
 7 Stephanie Schwam Adams, )  
 8 Mike Gamson, )  
 9 Mitchell Rosenbaum, )  
 10 Julie Cooper, )  
 11 Kenda Greenwood, )  
 12 Stephen Pettinger, )  
 13 Anthony Sylvester, )  
 14 Will Nothacker, )  
 15 Martin Goeller, )  
 16 Daniel Markell, )  
 17 Randy Jones, )  
 18 Marissa Price, )  
 19 **LARRY PAGE**, President, Google, Inc., )  
 20 **SERGEY BRIN**, President, Google, Inc., )  
 21 **GOOGLE, INC.**, a California Corp., )  
 22 **JAMES BARNETT**, President, )  
 23 Altavista company; )  
 24 **ALTAVISTA CO.**, a Delaware )  
 25 Corporation, )  
 26 **CHAD HURLEY**, Chief Executive Off., )  
 27 YouTube, LLC; )  
 28 **YOUTUBE, LLC**, a California Limited )  
 Liability Company, and **DOES 1-20**; )  
 Defendants )

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## INTRODUCTION

This is a complaint for money damages and injunctive relief by Plaintiff **ALICIA GUASTAFERRO**, a minor, by and through her guardians, her mother, Karen Guastafarro and her father Ralph Guastafarro, against the Defendants, named above, based on the damages she has suffered and continues to suffer, as a direct result of her participation in the ABC reality television show, "**WIFE SWAP**." The episode of the show, in which the minor appeared, aired on nationwide U.S. television on January 2, 2008.

1 The release on television was available for viewing in global TV markets. The global  
2 marketing of the series serves to multiply the amount of her damages.

3 **JURISDICTION AND VENUE**

4 1. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332, as the Plaintiff,  
5 a minor, is a citizen of the State of New York; the individual Defendants are citizens of the State  
6 of California, and the Corporate Defendants are incorporated in the State of California and the  
7 State of Delaware.

8 2. Further, this Court has jurisdiction pursuant 28 U.S.C. § 1332, as the matter in  
9 controversy, exclusive of interest and costs, exceeds the sum of \$ 75,000.00.

10 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as the acts  
11 complained of occurred in primarily in Orange County, California and a majority of the  
12 Defendant Parties live, work, conduct their business and/or reside in Orange County, California.

13 **PARTIES**

14 4. Plaintiff ALICIA GUASTAFERRO, a minor (hereinafter referred to as "Alicia")  
15 was and is at all times mentioned herein, a resident of Erie County, New York.

16 5. Plaintiff's guardian, her mother, Karen Guastafarro was, and is at all times  
17 mentioned herein residents of Erie County, New York. [A true and correct copy of the  
18 Certificate of Appointment of Guardian(s) is attached as **Exhibit "A"** and incorporated by  
19 reference herein.]

20 6. Plaintiff's alternate/co-guardian, her father, Ralph Guastafarro was, and is at all  
21 times mentioned herein residents of Erie County, New York. [A true and correct copy of the  
22 Certificate of Appointment of Guardian(s) is attached as **Exhibit "A"** and incorporated by  
23 reference herein.]

24 7. Plaintiff minor Alicia Guastafarro is informed and believes, and based thereon  
25 alleges, that at all times herein mentioned, Defendant **ROBERT IGER**, as an individual, was  
26 and is the President of Defendant **THE WALT DISNEY CO.** (hereinafter "Walt Disney Co."),  
27 a California corporation, organized and existing pursuant to the laws of the State of California,  
28 doing business in the County of Orange, State of California.

1           8.     The Plaintiff is informed and believes, and based thereon alleges, that at all times  
2 herein mentioned, Defendant **ANNE SWEENEY**, as an individual, was and is the President of  
3 Defendant **DISNEY ABC TELEVISION GROUP**, (hereinafter "Disney ABC"), a California  
4 corporation, organized and existing pursuant to the laws of the State of California, doing  
5 business in the County of Orange, State of California.

6           9.     The Plaintiff is informed and believes, and based thereon alleges, that at all times  
7 herein mentioned, Defendant **JANICE MARINELLI** was President of **DISNEY ABC**  
8 **DOMESTIC TELEVISION** (hereinafter "Disney ABC Domestic"), a California corporation,  
9 organized and existing pursuant to the laws of the State of California, doing business in the  
10 County of Orange, State of California.

11          10.    The Plaintiff is informed and believes, and based thereon alleges that at all times  
12 herein mentioned, Defendant **KIRK SCHENCK** was President of Defendant **RDF MEDIA**  
13 **USA, INC.** (hereinafter "RDF Media USA, Inc."), a California corporation, organized and  
14 existing pursuant to the laws of the State of California, doing business in the County of Orange,  
15 State of California.

16          11.    The Plaintiff is informed and believes, and based thereon alleges that at all times  
17 herein mentioned, Defendants **LARRY PAGE** and **SERGEY BRIN** were Presidents of  
18 **GOOGLE, INC.** (hereinafter "Google"), a Delaware corporation, organized and existing  
19 pursuant to the laws of the State of Delaware, doing business in the County of Orange, State of  
20 California.

21          12.    The Plaintiff is informed and believes, and based thereon alleges, that at all times  
22 herein mentioned, Defendant **JAMES BARNETT** was President of **ALTAVISTA**  
23 **COMPANY** (hereinafter referred to as "AltaVista"), a Delaware corporation, organized and  
24 existing pursuant to the laws of the State of Delaware, doing business in the County of Orange,  
25 State of California.

26          13.    The Plaintiff is informed and believes, and based thereon alleges, that at all times  
27 herein mentioned, Defendant **CHAD HURLEY** was the chief executive officer of **YOUTUBE,**  
28 **LLC** (hereinafter "YouTube"), a Limited Liability Company, organized and existing pursuant to

1 the laws of the State of California, doing business in the County of Orange, State of California.

2 14. The Plaintiff is informed and believes, and based thereon alleges, that at all times  
3 herein mentioned, Defendants **STEF WAGSTAFFE, MICHAEL DAVIES, STEPHEN**  
4 **LAMBERT, STEPHANIE SCHWAM ADAMS, MIKE GAMSON, MITCHELL**  
5 **ROSENBAUM, JULIE COOPER, KENDA GREENWOOD, STEPHEN PETTINGER,**  
6 **ANTHONY SYLVESTER, WILL NOTHACKER, MARTIN GOELLER, DANIEL**  
7 **MARKELL, RANDY JONES, and MARISSA PRICE** (hereinafter "RDF Producers") were  
8 producers and associated with the "Wife Swap" reality television program.

9 15. The Plaintiff is informed and believes, and based thereon alleges, that at all times  
10 herein mentioned, **GOOGLE, INC.** (hereinafter "Google"), a California corporation;  
11 **ALTAVISTA COMPANY** (hereinafter "AltaVista"), a Delaware corporation; and  
12 **YOUTUBE, LLC** (hereinafter referred to as "YouTube"), a California Limited Liability  
13 Company, owned, operated, and hosted websites and controlled search engines and related  
14 technology that are the subject of this lawsuit.

15 16. The true names and capacities, whether individual, corporate, associate or  
16 otherwise of certain agents, employees, and or their alter egos sued herein as **DOES 1** through  
17 **10** and **DOES 11 through 20** are presently unknown. When the true names and capacities of  
18 said Defendants have been ascertained, the Plaintiff Alicia Guastaferrero, a minor, by and through  
19 her guardian-parents will amend this Complaint accordingly. The Plaintiff is informed and  
20 believes and thereon alleges that each Defendant designated herein as a DOE is responsible for  
21 the events and happenings hereinafter referred to, and caused injuries and damages proximately  
22 thereby to the Plaintiffs, as hereinafter alleged.

23 **COMMON ALLEGATIONS**

24 17. All of the allegations in this Complaint are based on facts or information and  
25 belief and or likely to have evidentiary support upon completion of investigation and discovery.

26 18. The true names and capacities, whether individual, corporate, associate or  
27 otherwise of certain agents, employees, Presidents, COO and CEO, and or their alter egos sued  
28 herein are presently unknown. When the true names and capacities of said Defendants have



1 been ascertained, the Plaintiff will amend this Complaint accordingly. The Plaintiff is informed  
2 and believes and thereon alleges that each Defendant designated herein as a DOE is responsible  
3 for the events and happenings hereinafter referred to, and caused injuries  
4 and damages proximately thereby to the Plaintiff Alicia Guastafarro as hereinafter alleged.

5 **STATEMENT OF FACTS**

6 19. On or about March 29, 2007, Alicia Guastafarro's mother, Karen Guastafarro,  
7 entered into an written agreement with the producers of the ABC reality television show, "**Wife**  
8 **Swap**" (the "Agreement") and agreed to participate and be featured in the filming of an episode  
9 for the reality television show, "Wife Swap." [A true and correct copy of the Agreement is  
10 attached as **Exhibit "B"** and incorporated by reference herein.]

11 20. At all times relevant herein, the concept behind the ABC reality television show  
12 "Wife Swap" was that two wives each from a different family and each a resident of a different  
13 part of the country, and each with a different background, swap places and reside in the others  
14 respective household. This approach would appear to be a big departure from the "Snow  
15 White" genre. The filming then looks in on how each wife adapts into the other family over a  
16 period of two weeks, each tackling the household and parenting duties of the other wife.  
17 Alicia's mother Karen was to be featured as one of the wives selected for the show. Wife Karen  
18 was in the first episode of the show's fourth season, which first aired on the ABC television  
19 network on January 2, 2008. In this episode, Wife Karen swapped places with Wife Angie  
20 Boss, from another family. Naturally, the children and husbands of the two families were  
21 featured in the episode which was released nationally on television on January 2, 2008.

22 21. Although the participants were led to believe that the Wife Swap episode would  
23 focus on the differences between the two wives of the participating families, the Boss family  
24 and Guastafarro Family, the Defendants unilaterally and without the consent of the parties  
25 switched the focus of the episode to the Karen Guastafarro's 15 year old daughter Alicia,  
26 breaching the terms of the Agreement. After the editing, the final production release of the show  
27 depicted Plaintiff Alicia to be a spoiled diva, pampered and catered to by her parents in every  
28 aspect of her life. With scripted dialogs and selective filming and editing, Alicia was no longer

1 portrayed as her real self. The filming followed Alicia and swept her mother Karen aside.

2 The voice-over narration repeatedly referred to Alicia as "spoiled Alicia," a  
3 characterization so far out of reality of who Alicia really was and is that she was transformed  
4 into a spoiled, rude, ignorant, uneducated brat to the TV viewers, locally and globally.

5 22. All of this was in severe contrast to Alicia's real life self, a highly academic  
6 respected student. Instead, television viewers were fed Alicia as a stereotypical "dumb blonde,"  
7 lacking basic reading and spelling skills.

8 23. After the airing of the Wife Swap episode on January 2, 2008, Alicia became the  
9 subject of inappropriate, foul-mouthed, trashy, and demeaning website postings hosted by the  
10 Defendants, **Google, Alta Vista and YouTube**, [www.google.com](http://www.google.com), [www.altavista.com](http://www.altavista.com), and  
11 [www.youtube.com](http://www.youtube.com). Then, footage from the TV episode was manipulated by third parties who  
12 came along and republished their altered replays with links listed on the search engines of the  
13 above Defendants. The multitude of Internet postings described Alicia with unwarranted,  
14 socially irresponsible notoriety as the "most spoiled kid in America" and the "beauty queen  
15 from Hell." Alicia's persona was reduced to zero by the market share greedy Defendants. [True  
16 and correct copies of just a few of the representative Internet Postings are collectively attached  
17 as **Exhibit "C"** and incorporated by reference herein.] There are literally THOUSANDS of  
18 these Internet Postings which, clearly are too voluminous to attach as Exhibits but a major  
19 portion of which will be produced in the course of discovery and at time of trial.

20 24. Alicia started receiving harassing and threatening phone calls after the January 2,  
21 2008 TV showing of the episode. There were death threat letters; Alicia's home mailbox was  
22 filled and exploded with firecrackers. Alicia's auto was vandalized with eggs. Police reports  
23 were filed.

24 25. Alicia and her parents have been extremely upset by the distorted and humiliating  
25 portrayal of Alicia and her family on the TV wife swap episode which gave rise to cruel Internet  
26 depictions of the minor girl. As a result of this turmoil, Alicia has been placed under a  
27 therapist's care. Alicia will be under a therapist's care for the foreseeable future. Alicia has  
28 described her fears of being alone, as a fear for her safety in light of the threats made against her

1 and her family, and the isolation she experiences from her schoolmates at school. This whole  
2 affair has affected Alicia in ways unimaginable. The Defendants had to have known or should  
3 have known from their collective experience and background in and knowledge of the  
4 entertainment industry that in characterizing Alicia, on national television, as a demon, brat  
5 child, apparently to elevate the TV ratings and advertising revenue for the show, that the  
6 repercussion and backlash would be harsh and devastating and that she would experience  
7 exactly what has been occurring.

8         26 It is apparent that the Defendants shamelessly exploited Alicia's naiveté for  
9 commercial gain, creating a character that was to be foreseeably subjected to the very Internet  
10 damage that arose and continues with each subsequent airing of the show worldwide. The  
11 Google, Alta Vista, and YouTube sites and their Defendant corporate officers and employees  
12 perpetuate the trauma, noting that the Defendants continue to sanction and have refused to  
13 remove the Internet links and comments that perpetuate the damage to Alicia and her parents.

14         27. On or about, September 10, 2008, Alicia's parents were appointed as her  
15 guardians to pursue her legal claims, through Certificate No. 16423, by the Surrogate's Court of  
16 the State of New York, Erie County. This Certificate was obtained to establish the  
17 representative capacity of the parents for their minor daughter Alicia. [Referenced as Exhibit  
18 "A" above.]

19         29. On or about March 29, 2007, Alicia's mother Karen entered into a written  
20 Agreement (See Exhibit "B") with the Defendants **RDF Media USA, Inc., the RDF**  
21 **Producers**; and DOES 1-10. The Agreement would have her participate in the filming of an  
22 episode for the aforementioned reality television show, "Wife Swap."

23         30. Pursuant to the terms of the Agreement, Karen Guastafarro was understandably  
24 led to believe that the Wife Swap episode would focus on the differences between the two  
25 wives of the participating families, i.e., Ms. Angie Boss of the Boss family and Ms. Karen  
26 Guastafarro of the Guastafarro Family; however, the main focus of the Wife Swap episode,  
27 shifted to Alicia Guastafarro. Thereafter, without the consent of Alicia or her mother (or father),  
28 the Wife Swap episode set about to depict Alicia in a severely, negative light. Through scripted



1 dialogs and selective filming and editing, Alicia was unfairly and falsely portrayed to be  
2 extremely spoiled, pampered, rude, and catered to. In fact, the voice-over narration repeatedly  
3 referred to Alicia as "spoiled Alicia." Also, despite Alicia's good academic performance in  
4 school, which includes being named to the honor roll, national and global viewers were led to  
5 believe that she was a stereotypical "dumb blonde," lacking basic reading and spelling skills.

6 31. Plaintiff Alicia never consented to be filmed as the "main event" of the show; she  
7 did not waive any privacy rights; and she did not sign the original Agreement or any release for  
8 the reality series show that was entered into between her mother and the Defendants RDF Media  
9 USA, Inc.; the RDF Producers; or any of the other named Defendants, including the DOE  
10 Defendants. And, assuming arguendo, even if she did so, at age 15, she lacked the legal capacity  
11 to enter into a valid and binding contract of this nature. The Defendants' actions constituted a  
12 knowing, intentional breach of the Agreement that was signed by Plaintiff Alicia's mother  
13 Karen. Alicia, never expressly or impliedly consented to be filmed so as to be held up to  
14 ridicule with the disrespectful, crude narration about her that was later added in the editing  
15 room. However, in course Plaintiff's good faith attempt to resolve this matter amicably,  
16 Defendant RDF Media alleged that Alicia had on her own signed the same or a different  
17 agreement regarding this matter. However upon Plaintiff's request that RDF Media provide a  
18 copy of this alleged agreement, no such document was ever provided.

19 32. Furthermore, during filming, Alicia was abusively coached to answer questions in  
20 a specific manner on camera so as to cast her character in a false light and which later supported  
21 the narration added after the filming during the editing work. It was not by accident that the  
22 show took this different path, it was intentional. It was all too inclusively programmed to have  
23 occurred by accident or happenstance. Plaintiff Alicia alleges that the top Walt Disney company  
24 officials on down to the cameramen and script coaches approved, ratified, and endorsed the  
25 altering of the show's format.

26 33. Plaintiff Alicia is suffering from severe mental anguish, severe emotional distress,  
27 and personal hardship as a direct and proximate result of the intentional conduct of the  
28 Defendants' RDF Media USA, Inc. and the RDF Producers; and the other named Defendants.

1 The trauma to her continues with the Walt Disney/ABC reruns, syndication to other  
2 media outlets (such as the Lifetime channel) and overseas sales for foreign distribution of the  
3 January 2, 2008 episode.

4 34. The harm and mental anguish that Alicia has suffered and continues to experience  
5 was made even more outrageous by the conduct and actions of Defendant Stephen Pettinger  
6 (hereinafter "Pettinger.") Pettinger, one of the co-producers of the ABC reality show, along  
7 with the assistance of the other Defendants, directed the filming of portions of the episode in  
8 the Guastafarro family home. Pettinger directed the scripted dialogue for Alicia to say on  
9 camera. One such script for Alicia was: *"I feel terrible for people that are not gorgeous"*

10 35. Immediately after the premiere showing of the Wife Swap episode on January 2,  
11 2008, the negative, threatening, harmful blogger comments came pouring in AND, they are  
12 indelibly present today on the Internet. (See Exhibit "C") The harm to Alicia continues a year  
13 after the filming and release. One has only to enter the name Alicia Guastafarro into Google,  
14 AltaVista, or YouTube search engines to view video clips perpetuating the harm to Alicia. All  
15 the Defendants herein, are charged with the knowledge that Alicia would incur this negative  
16 notoriety on the Internet.

17 36. Outside the presence of Alicia's parents, Pettinger, acting outside of the  
18 Agreement terms and conditions tutored Alicia to make statements on camera that exploited her  
19 naiveté, innocence, and inexperience. Thus, Alicia was put in the position of having to utter  
20 scripted dialogue that was obviously designed by Pettinger and other Defendants to provoke a  
21 negative reaction in the viewing television public. Plaintiff alleges that the top Disney officials  
22 and other Defendants trade in the forceful exploitation of the naiveté of a minor child for profit  
23 and gain.

24 37. This outrageous conduct has tarnished the reputation and character of Alicia and  
25 has left her with only one remedy, a suit against all the Defendants to obtain redress and  
26 compensation for the attacks on her reputation, caused by the breach of the Agreement by the  
27 named Defendants. Finally, Alicia cannot rest well until the negative publicity on the Internet  
28 sites and search engine results are removed. The Defendants have the power to do this.

1           38. Karen Guastaferrero performed all conditions, covenants, and promises on her part  
2 to be performed in accordance with the terms and conditions of the Agreement. Plaintiff Alicia  
3 Guastaferrero unwittingly became a pawn in the breach of contract by all the Defendants.

4                                   **FIRST CAUSE OF ACTION**

5                   **INVASION OF PRIVACY- COMMERCIAL MISAPPROPRIATION, INTRUSION**  
6                   **UPON ANOTHER'S PRIVACY, PUBLIC DISCLOSURE OF PRIVATE FACTS.**

7           (As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; Disney  
8 ABC Domestic; Google; Alta Vista; YouTube and DOES 1-20)

9           39. The Plaintiff hereby incorporates by reference the allegations set forth in  
10 paragraphs 1 through 38 above as though fully stated herein.

11           40. At all times mentioned herein, the Defendants RDF Media USA, Inc., the RDF  
12 Producers, the Walt Disney Co. Disney ABC; and Disney ABC Domestic and DOES 1-10  
13 owned, maintained, controlled, managed, and or operated the content, script, dialogs, filming  
14 and editing, of the reality television show, "Wife Swap."

15           41. When discussing Wife Karen Guastaferrero's participation in the Wife Swap  
16 episode and pursuant to the Agreement, the Defendants RDF Media USA, Inc., the RDF  
17 Producers and the others named above at lines 7 and 8, informed and or assured Karen  
18 Guastaferrero that she was to be the focus of the show – which is and was typical in such episodes  
19 and which was the show's advertised format until the producers met Alicia and saw that she was  
20 a perfect victim to be used and duped by them. However, the Boss/Guastaferrero Wife Swap  
21 episode concentrated on Plaintiff Alicia in a manner outside the scope and parameters of any  
22 contemplated Agreement signed by Karen and definitely without the consent of Plaintiff or her  
23 parents.

24           42. Instead, the episode set out to and did depict Alicia as a stereotypical "dumb  
25 blonde," uneducated, rude, and spoiled. The Plaintiff lives an ordinary private life. She was and  
26 is a gifted teenager in her own private life who has excelled in school academics. Defendants  
27 wrongfully invaded Alicia's right to retain her prior character and status in her community and  
28 falsely characterized her in an offensive and objectionable manner for publication on television

1 on January 2, 2008 and thereafter in reruns and syndication which damaged her reputation then  
2 and continues to tarnish her reputation; casting a shadow upon her parents as well. The purpose  
3 of the reality show was to portray the lives of the family-swapped wives. Yet, without any  
4 concern or regard to the privacy and personal dignity of the minor child at the tender age of 15,  
5 the Defendants engineered the Wife Swap episode to look into Alicia and turn her inside out.  
6 The result was an exaggerated caricature of her, wrongly exposing her to the viewing public on  
7 television as something she was not. The airing of the January 2, 2008 television show caused  
8 her to be held up to public scorn, ridicule, hatred, contempt and obloquy with the resultant  
9 mental and physical suffering. (See Exhibit "C")

10 43. Pursuant to the internal policies and Terms of Use established by the Defendants  
11 Google, Alta Vista, YouTube, and the DOES, the Defendants have the right to pre-screen,  
12 review, flag, filter, modify, refuse or remove any or all content (all information - such as data  
13 files, written text, computer software, music, audio files or other sounds, photographs, videos or  
14 other images) from any service provided by them. (See <http://www.google.com/accounts/TOS>  
15 and <http://sketchup.google.com/support/bin/answer.py?hl=en&answer=38866>.)

16 44. As the direct and proximate result of the Defendants' reckless failure to abide by  
17 their own terms of service by allowing the flagrant abuse of their websites in the form of the  
18 unreasonable public disclosure of false, manipulated, and abusive media revolving around the  
19 minor child Alicia to be posted on and hosted by their websites, said Defendants knowingly  
20 caused and contributed to her mental and physical suffering. She is entitled to compensation for  
21 their wrongful acts.

22 45. Pettinger also portrayed the parents of Alicia falsely by creating an impression  
23 that the spoiled, rude, uneducated minor child was the product of the way she was brought up.

24 46. Alicia has the right to be free from unauthorized, unwarranted publicity and  
25 commercial misappropriation of her likeness to the Defendants' monetary advantage. Instead  
26 the Defendants used her name, voice, photographs, and likeness for purposes of advertising and  
27 selling a TV series in which the Plaintiff, without her consent and exceeding parental  
28 authorization, was portrayed as noted in a negative, false light. Plaintiff is informed

1 and believes that the Defendants, and each of them, have sold the episode in to syndication  
 2 nationally and internationally for profit and gain. Almost immediately after the airing of the  
 3 episode, Alicia unwantedly became a notorious public figure, an object of reproach and  
 4 ill-repute, and an infamous celebrity, who became a cash cow, a money making puppet, a  
 5 sacrificial lamb, and a pawn in the Defendants' media ratings game and their ill gotten gain  
 6 and profit.

7 47. As the direct and proximate result of the above-alleged disclosures, the  
 8 Defendants have infringed Alicia's right of privacy. She has become the object of continued  
 9 public ridicule and harassment.

10 48. Plaintiff demands that the Defendants, who have control of what is placed on  
 11 their websites, exercise that control to remove the negative links on the Internet sites controlled  
 12 by the Defendants that disparage and hold Plaintiff up to public scorn, ridicule, hatred,  
 13 contempt and obloquy.

## 14 **SECOND CAUSE OF ACTION**

### 15 **INVASION OF PRIVACY – FALSE LIGHT**

16 (As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; and  
 17 Disney ABC Domestic; Google; Alta Vista; YouTube and DOES 1-20)

18 49. The Plaintiff hereby incorporates by reference the allegations set forth in  
 19 paragraphs 1 through 48 above as though fully stated herein.

20 50. On or about March 29, 2007, Karen Guastafarro, the mother of the Plaintiff  
 21 entered into an Agreement with the aforementioned and agreed to participate in the filming of  
 22 an episode for the reality television show, "Wife Swap."

23 51. Mrs. Guastafarro was intentionally led to believe that the Wife Swap episode  
 24 would center on the differences between the two wives of the participating families, i.e. the  
 25 Boss family and the Guastafarro Family. However, the Defendants moved away from that  
 26 approach, and focused on Alicia the 15-year-old daughter of the Guastafarreros. Without the  
 27 consent of Alicia, a minor or her parents, Mr. and Mrs. Guastafarro, the filming proceeded to  
 28 portray the minor child Alicia in a false light that was highly offensive and embarrassing and



1 then subsequently published their outrageous characterization of her through the TV broadcast of  
2 the Wife Swap episode on January 2, 2008. The Defendants coached Plaintiff Alicia with  
3 dialogue from their pre-developed scripts in conjunction with selective filming and editing  
4 techniques which portrayed the child unfairly and falsely as being extremely spoiled and rude. In  
5 fact, the voice-over narration repeatedly referred to Alicia as "spoiled Alicia." Also, viewers  
6 were led to believe that she was a stereotypical "dumb blonde," lacking basic reading and  
7 spelling skills.

8         52. Clearly, the Defendants RDF Media USA, Inc., the RDF Producers; the Walt  
9 Disney Co., Disney ABC, and Disney ABC Domestic, and all Defendants acted with  
10 recklessness as to whether their acts would place Plaintiff in a false light with the viewing public  
11 as well as among television release of the episode. The Defendants did or should have foreseen  
12 that the particular kind of harm might occur and yet they proceeded anyway. Without Alicia's  
13 consent, Defendants invaded her right to privacy by shamelessly exploiting Alicia's innocence  
14 for commercial gain and holding her up in a false light as a spoiled, dumb blonde spoiled brat.  
15 Instead of focusing on the personality and activities of the featured wife, Karen Guastafarro, as  
16 was contemplated by the parties' original Agreement, and the show's advertised promotional  
17 premise, the Defendants intentionally drafted an episode for TV that would draw the viewers'  
18 attention on a skewed misrepresentation of the child, Alicia, thereby generating publicity that  
19 placed Alicia in a false light in the public eye.

20         53. The Defendants RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.;  
21 Disney ABC; Disney ABC Domestic and all Defendants were aware of the false portrayal of  
22 Alicia and they engineered the Wife Swap episode to focus on an embroidered falsification of  
23 the minor child that invaded her personal life and transformed her on film to something she was  
24 not and then published it over television. Wife Swap was after market share and ad revenue.

25         54. Further multiplying the injury to Alicia, upon the airing of the aforementioned  
26 "Wife Swap" television episode, the persona of the minor child, Alicia, became the subject of  
27 various inappropriate and unacceptable postings on websites hosted by the Defendants. Third  
28 parties added narration and disgusting phrases for use in their videos uploaded to YouTube.

1           55.     The publicity created by the Defendants was offensive and objectionable to Alicia  
2 and to a reasonable person of ordinary sensibilities. Alicia has been extremely upset by the  
3 distorted and humiliating portrayal of her persona on Wife Swap, which gave rise and continues  
4 to this day to give rise to cruel and pornographic internet depictions of the minor girl, direction  
5 of foul and pornographic language upon her, death threats, and many other forms of  
6 harassment. (See Exhibit "C") As a proximate result of the above-alleged disclosures, the  
7 Defendants have placed Alicia in a false light and infringed Alicia's right of privacy. Alicia has  
8 become the object of very offensive public ridicule and harassment.

9           56.     The Defendants knew, or should have known, that the publicity created by them  
10 through their failure to exercise due care during the filming and telecast of the aforementioned  
11 reality show "Wife Swap," and hosting the manipulated videos and inappropriate, offensive  
12 postings, would unreasonably threaten the health and safety of the minor child and it would also  
13 affect the persona of Alicia causing severe mental, emotional distress, humiliation, ridicule, and  
14 embarrassment to her. As an immediate result of the deceitful conduct of the Defendants, Alicia  
15 has sustained and continues to incur substantial insult, humiliation and disrespect from the  
16 public due to character assassination of Alicia by these very Defendants who have happily lined  
17 their pockets at the expense of the Plaintiff minor's personal welfare, legal right and her best  
18 interest. Plaintiff has now incurred out of pocket legal fees, therapist's costs, emotional distress,  
19 and other damages in an amount to be proven at trial.

20           57.     Within 20 days after the Guastafarro Family learned of the broadcast of the  
21 manipulated "Wife Swap" television episode Alicia's parents served demands on Defendants  
22 demanding a correction or retraction. The Defendants have failed and refused to comply.

23           58.     Alicia has sustained and continues to incur substantial personal trauma as she is  
24 scorned and abandoned by her friends and family, exposed to contempt and ridicule, she is  
25 scared of going out and enjoy herself with her friends who have become limited in numbers due  
26 to the her negative notoriety, phobia of dining out fearing that others will spit on her food and  
27 having to scrape the top portion of every dish served and eating with plastic utensils because  
28 others have threaten and/or indicated they would spit on her food. She has distrust of adults in

1 general, and has suffered loss of reputation and standing in the community, all of which caused  
 2 her humiliation, embarrassment, hurt feelings, mental anguish, suffering, and other damages in  
 3 an amount to be proven at trial. Alicia has suffered major inabilities to address the public,  
 4 resume ordinary personal and professional life, incurred therapist's fees, out of pocket legal fees,  
 5 severe emotional distress, physical harm, has been subjected to assaults, her car was vandalized,  
 6 her boyfriend was beaten up and left her, she has asked several boys to her school's winter  
 7 dance, all of whom have rejected her, and the parent of the one boy from another school who  
 8 did accept has now caused the boy to distance himself from Alicia due to pressures from the  
 9 community. This is just not the American way, this not the humane way, no child should be  
 10 subjected to this abusive treatment anywhere in the world. It is just WRONG. As a result of  
 11 this, Alicia has incurred actual, special, mental, physical, financial, emotional, economic,  
 12 legal, and personal damages and continues to suffer at the hand of these Defendants. This Court  
 13 has the power to stop and remedy all of this.

14 59. In making the disclosures described above, the Defendants are charged with  
 15 oppression, fraud, and malice, as the Defendants made the disclosures with the intent to vex,  
 16 injure, or discredit Alicia, accompanied with a willful and conscious disregard of the Alicia's  
 17 rights. Alicia therefore seeks an award of punitive damages.

#### 18 **FOURTH CAUSE OF ACTION**

#### 19 **NEGLIGENCE**

20 (As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; Disney  
 21 ABC Domestic; Google; AltaVista; YouTube; and DOES 1-20)

22 60. The Plaintiff incorporates by reference paragraphs 1 through 59. above as though  
 23 fully stated herein.

24 61. At all times mentioned herein, the Defendants RDF Media USA, Inc.; the RDF  
 25 Producers; the Walt Disney Co.; Disney ABC; and Disney ABC Domestic, owned, maintained,  
 26 controlled, managed, and/or operated the content, script, dialogs, filming and editing, of the  
 27 reality television show, "Wife Swap."  
 28

1           62.     The Defendants, who aired the Wife Swap program on January 2, 2008 that  
2 included the Guastafarro family and provided Internet access via their facilities to all the  
3 inappropriate and unacceptable postings on the websites, owed a duty to Plaintiff Alicia and her  
4 family as well, to portray them in a fair, balanced, realistic manner. Instead, the Defendants  
5 went ahead with their distasteful, demeaning, scripted, and edited film focusing on the minor  
6 child Alicia instead of Karen Guastafarro, the wife, and released and published it on television  
7 without the consent of her parents, thereby breaching that duty owed to the minor child as  
8 described above.

9           63.     The release of the Wife Swap show by the Defendants immediately resulted in  
10 the minor child being ridiculed in the public eye and subjected her and her family to a multitude  
11 of harassing and threatening incidents, including threats to the minor child's personal safety.

12           64.     Upon the airing by Defendants of the Wife Swap episode on January 2, 2008, the  
13 persona and personal and public life of the minor child Alicia was severely and permanently  
14 injured. She had been demeaned and subjected to ridicule in the finished, narrated film which  
15 has been or will be published over television repeatedly in reruns and which has offensive film  
16 clips published on websites controlled by the Defendants, in particular YouTube.

17           65.     The Defendants were the direct and proximate cause of Alicia's injuries. But for  
18 Defendants' acts and conduct Alicia would not be in the circumstances that haunt her daily.  
19 Alicia immediately became the subject of a large number of unacceptable, foul language  
20 postings on the websites hosted by the Defendants. Her school friends began ignoring her. Boys  
21 refused to date her. She has become an anathema to all whom come near her at school and after  
22 school. She is shunned by her peers, by adults in her neighborhood, by the townspeople she  
23 comes into contact with and by most others who have viewed this TV Show. This has resulted  
24 in Alicia suffering emotional and physical trauma. She continues to receive counseling and  
25 treatment by a therapist to seek to resolve her depressed condition, all resulting from the acts  
26 and conduct of the named Defendants.

27           66.     As should have been foreseeable to the aforementioned Defendants who profess  
28 to have a reputation for child-safe movie and TV programming fostered by the work of their

1 benefactor, Walt Disney, third parties came along and manipulated the already negative TV  
2 footage, further adding despicable subtitles and narration depicting the minor child as a spoiled,  
3 rude, pampered brat. This harm to Alicia was foreseeable to the Defendants and they knew or  
4 should have known that it was inevitable that such disparaging presentations of Alicia would  
5 crop up upon their initial release of the Wife Swap show on January 2, 2008 on national TV  
6 circuits, the Internet, and worldwide distribution channels. And it should have been recognized  
7 and board room predictable by the aforementioned Defendants that these modified film clips  
8 and segments would be published over and over again on YouTube with search engine access  
9 via Google and Alta Vista. YouTube, for example even shows the number of "hits" that each  
10 item receives on a daily basis, some in the thousands, suggesting that one item is better than  
11 another.

12         67. The filming, add-on narration, and release on TV by the aforementioned  
13 Defendants was and continues to be the basic cause of the harm and injury to the minor Alicia,  
14 and her parents.

15         68. In accordance with their own internal policies and Terms of Use, the Defendants  
16 have the right and or option to pre-screen, review, flag, filter, modify, refuse or remove any or  
17 all content (all information - such as data files, written text, computer software, music, audio  
18 files or other sounds, photographs, videos or other images from any service they offer.

19         However, as a proximate result of the Defendants' failure to abide by their own terms of  
20 service by allowing flagrant abuse of their websites in the form of false, manipulated, and  
21 abusive media revolving around the minor child Alicia to be posted on and hosted by their  
22 websites, said Defendants have further caused and contributed to Alicia's injuries.

23         69. Additionally, referencing their connection to the Walt Disney Company and the  
24 Disney Company's reputation for protecting families and providing "wholesome" family movie  
25 and TV subject matter, the Defendants RDF Media USA, Inc. and the RDF Producers and the  
26 President of the Walt Disney Co. on down to the production crews promised the Guastaferrro  
27 Family that Alicia would be "taken care of" during the filming. Instead, the producers,  
28 apparently with top-level approval, manipulated the show and directed Alicia, a minor, to



1 answer certain questions in a way that depicted her in a poor and demeaning light.

2 70. The Defendants were served with notice by the Guastaferrero Family to take down  
3 the postings on their websites, but the Defendants failed to remove any or all of the postings  
4 and footage. Accordingly, the Guastaferrero Family seeks an award of punitive damages.

5 **FIFTH CAUSE OF ACTION**

6 **FRAUD**

7 (As to RDF Media, Inc., the RDF Producers, and DOES 1-10)

8 71. Plaintiff incorporates by reference paragraphs 1 through 70 above as though fully  
9 stated herein.

10 72. The Guastaferrero Family agreed to participate in the ABC realty television show  
11 "Wife Swap." Pursuant to the Agreement, the Defendants repeatedly represented to the  
12 Guastaferrero Family that the show's focus would be on the Wife Karen Guastaferrero who was to  
13 be the wife who would be "swapped" into the Boss family.

14 73. However, at the time Defendants made the above representations to the  
15 Guastaferrero Family the Defendants knew their statements were in fact untrue and knew that  
16 they had no intention in having Wife Karen Guastaferrero the focus of the Wife Swap show.

17 74. Defendants' representations were made with the intent to deceive the  
18 Guastaferreros including Alicia. The scripting, editing, and narration for the show were  
19 developed well in advance of the shooting of this particular Wife Swap series. The shooting  
20 immediately commenced with the switch of emphasis from Wife Karen to her daughter Alicia.  
21 In truth and fact the Defendants had no intention of living up to the representations they made  
22 to Karen, her husband, and to Alicia that the show would focus on Karen Guastaferrero, to carry  
23 out the theme of a Wife Swap.

24 75. In reliance thereon, and without any notice or knowledge that said representations  
25 were false and untrue by said Defendants, Plaintiff Alicia and her parents relied upon  
26 Defendants representations and proceeded with the filming. Thus, the Defendants had  
27 successfully induced the Guastaferreros to rely upon their false representations of fact.

28

1           76. In truth and fact Defendants' intentions were to focus on Alicia, not her mother,  
2 and have Alicia speak on camera using pre-scripted dialog making her out to be a spoiled brat.  
3 The Defendants intentionally diverted the show's focus from the mother, Karen Guastafarro, to  
4 the daughter Alicia. The show depicted the minor child Alicia in a highly exaggerated,  
5 despicable manner, which resulted in her being scorned by her friends, schoolmates, and others  
6 who viewed the show during and after its first release on television. They believed what the  
7 show intended, that Alicia was a spoiled brat. Apparently the Defendants anticipated that the  
8 notoriety would enhance the viewer ratings and advertising revenue.

9           77. The Defendants effectively coerced and directed Plaintiff Alicia to speak on  
10 camera according to Defendants' script, which falsely depicted Alicia to be a spoiled, ignorant,  
11 and uneducated brat. In filming the child in that manner, the Defendants paved the way for the  
12 persona of the minor child to be the subject of various inappropriate postings on Internet search  
13 engines and aforementioned websites. Further, footage and still-shots from the television show,  
14 depicting the minor child, was edited by third parties for purposes of entry and display on the  
15 YouTube website.

16           These postings were coupled with threats of physical harm, sexual abuse, and other  
17 violent sexual acts which are to be perpetrated on the minor child Alicia (for example the desire  
18 by many commentators to gang bang the plaintiff), all of which essentially amounts to child  
19 pornography and child terrorism. (See Exhibit "C") The Defendants are supplying the tools  
20 and the weapons by which these terrorists and other disturbed individuals (including the  
21 Defendants themselves) are attacking the minor child from every angle and direction, and this  
22 Court has the power to stop the Defendants' vile acts now. These edits some with pornographic  
23 and perverse subtitles about Alicia are posted all over these Defendants' sites. Noting that the  
24 Plaintiff is a minor child, yet the Defendants are not taking any steps to remedy or stop this  
25 conduct, where it is easily within the Defendants' power and ability to do so without it being  
26 burdensome or causing the Defendants undue hardship to terminate and remove the third party  
27 postings. It is also very easy for the Court to keep track and monitor the efforts of Defendants  
28 to accomplish the goal of protecting the minor child.

1 The YouTube site is troubled by existing pornographic and violent content, including  
2 execution scenes of Alicia, hardly a wholesome medium for Alicia to be thrust into. The  
3 Guastaferreros did not bargain for this.

4 78. At all times Plaintiff and her parents were unaware of the Defendants' false,  
5 fraudulent, and damaging intentions and their intent to induce Alicia and her parents to work  
6 within the altered format.

7 79. Plaintiff and her parents justifiably relied upon the knowledge, experience,  
8 reputations, and representations of the Defendants based upon the Defendants' superior position  
9 of knowledge of how the TV and movie industry handles such matters involving the production  
10 of a TV show like Wife Swap. Further, they relied upon the internal policies and Terms of Use  
11 established by the Defendants as presented to them. The parents were misled to trust Disney,  
12 they were told, "...if you can't trust us (meaning Disney), whom can you trust?" After all,  
13 everywhere in the world, in every household, the name "DISNEY" is synonymous with  
14 wholesome family entertainment and, in every sense of the word that it is benign to children the  
15 world over. That was the only reason that the Guastaferreros at the time left their minor child  
16 during the filming of the episode alone and in the care, control, and custody of the producers and  
17 the camera crew of the Defendants. They were assured that Alicia would be taken care of and  
18 not harmed. But this was not the case and Alicia was harmed intentionally at the hand of these  
19 very Defendants whose sole purpose was to line their pockets with money at the expense of a  
20 minor's rights, best interests, welfare, and personal well-being. This Court has the power to  
21 remedy this situation.

22 80. The Defendants made such representations with the intent to deceive and defraud  
23 the Plaintiff and her parents and to induce the innocent and naïve 15 year old minor child Alicia  
24 to act and rely upon Defendants' false, fraudulent, and misleading representations in the manner  
25 alleged herein.

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81. All the aforementioned actions of the Defendants (RDF Media USA, Inc.; the RDF Producers and other Defendants) consisted of intentional misrepresentation, deceit, and/or concealment of a material fact known to the Defendants with the intention of depriving Plaintiff of her legal rights or otherwise causing mental distress and public humiliation, and such conduct subjected the Plaintiff to an unjust hardship in conscious disregard of her rights.

82. As a proximate result of the fraudulent conduct of the Defendants, Plaintiff Alicia is informed and believes, and thereon alleges, that the Defendants are liable for making false representations regarding the filming of inappropriate episodes breaching and/or disregarding the Agreement. Furthermore, the Defendants intended to mislead the minor child through their dialog direction of what she was told to speak on camera. As a result of Alicia's and her parents' reliance on these representations, Alicia has sustained and continues to incur substantial insult, humiliation and disrespect from the public and her friends, out of pocket legal fees, therapist's costs, emotional distress, and other damages in an amount to be proven at trial.

### SIXTH CAUSE OF ACTION

### BREACH OF FIDUCIARY DUTY

(As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; Disney ABC Domestic; Google; Altavista; YouTube; and DOES 1-20)

83. Plaintiff incorporates by reference paragraphs 1 through 82 above as though fully stated herein.

84. The Defendants, RDF Media USA, Inc., the RDF Producers; the Walt Disney Co.; Disney ABC; Disney ABC Domestic, have committed a breach of fiduciary duty causing grave harm to the Plaintiff and her parents. When the Defendants assured the Guastaferreros that they will protect Alicia while she was in their care, control and custody during the filming, this gave rise to assumption of fiduciary duties to a minor child such as a special relationship of teacher/student, guardian/minor, coach/team members, chaperone/minor children, etc... all within the heightened duty of fiduciary. The Defendants and each of them assumed the fiduciary relationship towards the minor child willingly and even encouraged the parents to leave Alicia with them while they were filming her segments in the parents' absence.

1 During the filming Alicia was left in their care, custody and control. Plaintiff was  
2 reassured that the primary focus of the reality show "Wife Swap" was to be the wives.  
3 However, the Defendants focused on the minor child Alicia and depicted her in an improper  
4 manner resulting in humiliation and public ridicule to her and her family. The above  
5 Defendants breached the terms and conditions of the Agreement, and made the minor child the  
6 center of attraction by showcasing her to be spoiled, ignorant and an uneducated brat, and by  
7 doing so they breached their fiduciary duty.

8 85. Furthermore, the Defendants, Google, AltaVista, YouTube, and DOES 11-20,  
9 being service providers, have also breached their fiduciary duty of restraining the depiction of  
10 inappropriate footages and postings edited by third parties on their websites. The Defendants  
11 are responsible for damaging the persona of the minor child Alicia, as various inappropriate and  
12 unacceptable postings edited by third party were and continue to be hosted on the Defendants'  
13 websites. The internal content policies established by the Defendants (Google, Alta Vista, and  
14 YouTube) and the State and Federal Laws prohibiting child pornography prohibit them from  
15 broadcasting such inappropriate and unacceptable postings about an underage child. Such  
16 offensive postings have caused immense psychological and emotional distress to the  
17 Guastaferrero Family and their minor child Alicia. Alicia sees the suffering of her parents, and in  
18 her own child like manner tries to soothe and comfort her parents, but inside she deals with the  
19 constant emotional rollercoaster of seeing her parents' agony and has tendency to blame herself  
20 for what the Defendants have brought upon her and her parents. This has then exacerbated her  
21 already severe emotional distress by seeing up close and personal and on daily basis her parents  
22 suffer due to Alicia's suffering.

23 86. Due to the unrestrained depiction and daily saturated bombardment of such  
24 footage and postings, the Plaintiff has been subjected to continued public ridicule, harassment,  
25 isolation and vandalism.

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1           87. As a result of the inappropriate postings on the websites hosted by the  
2 Defendants, Google, AltaVista, and YouTube, the Plaintiff Alicia Guastafarro has been placed  
3 in a therapist's and a psychiatrist's care to seek relief for psychological and emotional pain.  
4 Such unacceptable postings have damaged the minor child's persona, inducing various fears of  
5 being alone and fears as to her safety while out in public and at school. Plaintiff also is  
6 suffering from distrust of adults in general, fear of dining out, phobia of restaurant prepared  
7 foods, and other disorders caused by Defendants' acts and omission according to proof at the  
8 time of trial. This Court has the power to stop this inhumane treatment of this minor child by  
9 granting the injunction asked for herein as part of the remedies sought by the Plaintiff.

10           88. Thus, the Defendants have failed to keep a check on, monitor, and disable the  
11 availability of various manipulated videos and/or inappropriate, offensive postings depicting the  
12 minor child Alicia, thereby contributing to the emotional and psychological damage suffered by  
13 Alicia.

14           89. The Defendants knew, or should have known, that their failure to exercise due  
15 care during the filming and telecast of the aforementioned reality show "Wife Swap," and/or  
16 hosting the third party manipulated videos and/or inappropriate, offensive postings, would  
17 unreasonably threaten the mental, emotional, and physical health and safety of the minor child  
18 and it would also affect the persona of the minor child, Alicia, causing severe mental,  
19 emotional, and physical distress, as well as humiliation and embarrassment to her.

20           90. As a proximate result of the aforementioned breach of fiduciary duty by the  
21 Defendants, the Plaintiff has sustained and continues to incur substantial personal trauma,  
22 including but not limited to, inability to address the public, therapist's fees, out of pocket legal  
23 fees, emotional distress, and other damages in an amount to be proven at trial.

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**SIXTH CAUSE OF ACTION**

**LIBEL**

(As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; and Disney ABC Domestic; Google; AltaVista; YouTube; and DOES 1-20)

91. Plaintiff incorporates by reference paragraphs 1 through 90 above as though fully stated herein.

92. At all times mentioned herein, the Defendants owned, maintained, controlled, managed, and/or operated the content, script, dialogs, filming and editing of the reality television show, "Wife Swap."

93. At all times herein mentioned, the Plaintiff and her parents resided in the City of Williamsville, County of Erie, in the State of New York. The Plaintiff has resided for many years in the present location and at all times has enjoyed a fine reputation within her community and with her friends and school classmates.

94. The airing on television of the Wife Swap episode on January 2, 2008, was shown across the U.S. and into affiliated foreign areas, essentially on a "global basis." It was therefore published to third persons and contained the specified false and defamatory matter mentioned in the other allegations above. The episode depicted the persona of the minor child Alicia in a despicable, negative and false light in the released episode of the show.

95. That the publication was understood in its defamatory sense is demonstrated by the multitude of inappropriate, unacceptable, foul-mouthed postings on the websites hosted by the Defendants, Google, AltaVista and YouTube. Furthermore, footage from the television program depicting the Plaintiff minor child Alicia has been inappropriately pirated and manipulated by third parties with added narration and subtitles for purposes of insertion on YouTube and other search engines and websites. The amount of publication of the libelous material is beyond counting. It's everywhere on the Internet. One has only to Google the name Alicia Guastaferrro and up comes hundreds of blog and Internet links republishing the trashy characterization of Alicia and her parents. (See Exhibit "C") Plaintiff and her parents did not solicit this kind of false notoriety. It has been knowingly thrust upon them by the Defendants.

1           96.     The foul language, trashy and pornographic blog entries and YouTube videos  
2 refer to Alicia, and her parents. They are a continuing source of frustration, hurt, anguish, and  
3 emotional distress to the family. Such Internet postings have described Alicia with various  
4 unwarranted notoriety as the "most spoiled kid in America" and the "beauty queen from hell."

5           97.     There is no truth to the libelous characterization of Alicia in all the ways  
6 presented in the Wife Swap episode and on the Internet links and blogs. Quite to the contrary,  
7 she is an intelligent, caring, charming person in her personal life who excels in her schoolwork.

8           98.     The damage to the reputation of Plaintiff has become incalculable.

9           99.     The show was seen and continues to be seen and heard by persons who reside in  
10 and around where Plaintiff resides with her parents and the rest of the country and even in the  
11 global community.

12           100.    The Defendants likely intend to syndicate the show and republish the show many  
13 times in the future. Such republication perpetuates almost infinitely the damage to the Plaintiff.

14           101.    As a direct and proximate result of the broadcasting of the show and/or the  
15 providing of access to all the inappropriate and unacceptable postings on the websites, Plaintiff  
16 has suffered loss of her reputation, incurred shame, mortification, severe emotional distress,  
17 disorders, and hurt feelings. Alicia and her parents did not consent to Alicia being libeled in this  
18 manner, nor did the Defendants alert them beforehand that there could and would be a  
19 multiplicity of extremely foul, negative and pornographic blog entries and Internet comments  
20 such as "...she needs to be gang banged...", and "...I tapped that shit a few times..." of the  
21 type that the show has brought upon the Plaintiff. (See Exhibit "C")

22           102.    The negative portrayal of Alicia in the Wife Swap episode that originally aired on  
23 January 8, 2008, is false. It is libelous on its face as a matter of law. It clearly exposes the  
24 minor child Alicia to hatred, contempt, ridicule, and obloquy due to the negative portrayal of  
25 her. Through scripted dialogs and selective filming and editing, the minor child was unfairly  
26 and falsely portrayed to be extremely spoiled and rude, which in her personal life, she is not.

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1           103. As a proximate result of the broadcasting of the show and/or the providing of  
2 access to all the inappropriate postings on the websites, Plaintiff has suffered loss of her  
3 reputation, shame, mortification, and hurt feelings all to her injury and general damage.

4                           **SEVENTH CAUSE OF ACTION**

5                           **REQUEST FOR INJUNCTIVE RELIEF**

6                           (As to Google; AltaVista; YouTube; and DOES 11-20)

7           104 Plaintiff incorporates by reference paragraphs 1 through 103 above as though  
8 fully stated herein.

9           105. Shortly after the initial release on January 2, 2008 on television of the Wife Swap  
10 episode of the Guastaferrero Family, they discovered that on various websites owned and  
11 operated by the Defendants (Google, AltaVista, YouTube, and DOES 11-20), there appeared an  
12 incredible amount of unregulated objectionable content including pornography as measured by  
13 said Defendants' own policies and manuals regarding content on their websites.

14           106. Such objectionable, pornographic, or otherwise objectionable material consisted,  
15 in general, of such postings as Alicia being described as the "most spoiled kid in America" and  
16 the "beauty queen from hell," including references to Alicia in pornographic terms, i.e. what  
17 some bloggers would like to do to her and with her. Additionally, footage of Alicia from the  
18 Wife Swap television show was edited and manipulated by third parties and inappropriately  
19 displayed on the YouTube website, subjecting the minor child to further public humiliation.

20           107. Plaintiff's parents sent a "take down" letter to the Defendants, Google, AltaVista,  
21 and YouTube, demanding that said objectionable, pornographic, or otherwise objectionable  
22 content be immediately removed from the Defendants' websites.

23           105. In response to the parents' letters said Defendants appeared to have removed  
24 some content. However, it was subsequently determined that objectionable, pornographic, or  
25 otherwise objectionable content relating to the minor child Alicia remained on the Defendants'  
26 websites. In addition, new objectionable content was also uncovered.

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1           106. Since sending the letters to the Defendants, Google, AltaVista, and YouTube, the  
2 Defendants have not contacted the Guastafarro family to attempt to ameliorate the situation nor  
3 have they removed or otherwise prevented the uploading of new or updated or revised,  
4 objectionable, pornographic, or otherwise foul content regarding the minor child Alicia  
5 Guastafarro.

6           107. As a result of the objectionable, pornographic, or otherwise objectionable content  
7 being posted on the Defendants' websites, the minor child Alicia has been placed under a  
8 therapist's and psychiatrist's care. To date, Alicia has been demonstrating fear associated with  
9 being alone, as well as fear for her safety in light of the threats made against her and her family.

10           108. The conduct of the Defendants, Google, AltaVista, and YouTube, unless and until  
11 enjoined and restrained, will cause great and irreparable injury to the Guastafarro Family.

12           109. These postings were coupled with threats of physical harm, sexual abuse, and  
13 other violent sexual acts which are to be perpetrated on the minor child Alicia (for example the  
14 desire by many commentators to gang bang the plaintiff), all of which essentially amounts to  
15 child pornography and child terrorism. (See Exhibit "C") The Defendants are supplying the  
16 tools and the weapons by which these terrorists and other disturbed individuals (including the  
17 Defendants themselves) are attacking the minor child from every angle and direction, and this  
18 Court has the power to stop the Defendants' vile acts now. These edits some with pornographic  
19 and perverse subtitles about Alicia are posted all over these Defendants' sites. Noting that the  
20 Plaintiff is a minor child, yet the Defendants are not taking any steps to remedy or stop this  
21 conduct, where it is easily within the Defendants' power and ability to do so without it being  
22 burdensome or causing the Defendants undue hardship to terminate and remove the third party  
23 postings. It is also very easy for the Court to keep track and monitor the efforts of Defendants  
24 to accomplish the goal of protecting the minor child. The YouTube site is troubled by existing  
25 pornographic and violent content, including execution scenes of Alicia, hardly a wholesome  
26 medium for Alicia to be thrust into. The Guastafarreros did not bargain for this.

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1 A permanent injunctive order is both necessary and appropriate since the Plaintiff has no  
2 adequate remedy at law for the removal of the objectionable material. Thus, the conduct of the  
3 Defendants unless and until enjoined and restrained by this Court, will continue to cause great  
4 and irreparable injury. Such an injunction would not be burdensome or cause an undue hardship  
5 upon the Defendants as such affirmative action on their part would take place in the ordinary  
6 course of their business and is certainly easily within their power, ability, financial means, and  
7 technological know-how to do so.

8 110. Accordingly, the Plaintiff, through her parental guardians, requests the imposition  
9 of a temporary restraining order, a preliminary injunction, and a permanent injunction enjoining  
10 and ordering the Defendants, Google, AltaVista, and YouTube, to self-monitor their websites  
11 and to remove the offensive, pornographic, or otherwise objectionable content relating to the  
12 minor child Alicia Guastafarro and her parents' participation in the Wife Swap episode that  
13 originally aired on January 2, 2008.

14 **EIGHTH CAUSE OF ACTION**

15 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

16 (As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; Disney  
17 ABC Domestic; Google; AltaVista; YouTube; and DOES 1-20).

18 111. Plaintiff incorporates by reference paragraphs 1 through 110 above as though  
19 fully stated herein.

20 112. The Defendants' RDF Media USA, Inc.; the RDF Producers, the Walt Disney  
21 Co., Disney ABC; and Disney ABC Domestic. in their reality television show "Wife Swap"  
22 focused on the minor child Alicia, who was portrayed in a false light. The distasteful exhibition  
23 of the minor child, without the consent of her parents or the minor child, resulted in the minor  
24 child being ridiculed in the public eye and subjected to numerous harassing and threatening  
25 incidents, including threats to the minor child's personal safety.

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1           113. The extreme and outrageous conduct by the Defendants toward Alicia exhibited  
2 an intentional reckless disregard of the probability of their actions and conduct causing  
3 emotional distress to Alicia. She has suffered and continues to suffer severe emotional distress.  
4 The outrageous conduct of the Defendants was the actual and proximate cause of the emotional  
5 distress.

6           114. The Defendants knew or should have known and realized that their conduct  
7 described above in great detail, would inflict and would result in the extreme emotional distress  
8 and suffering to Alicia. The conduct of the Defendants was so extreme that it exceeded all  
9 bounds of that usually tolerated in a civilized community; subjecting Alicia to incredible  
10 suffering that at her tender age she has not been able to handle.

11           115. The conduct of the Defendants, RDF Media USA, Inc., the RDF Producers, the  
12 Walt Disney Co., Disney ABC, and Disney ABC Domestic, toward Alicia without her consent  
13 or understanding and without the approval of her parents was intentional and malicious. The  
14 Defendants had to know beforehand in drafting the script and scene layouts that they would be  
15 exposing Alicia to humiliation, mental anguish, and emotional and physical distress, all for the  
16 further purpose of increasing the ratings of the show and to increase the advertising revenue.  
17 Apparently, the viewing numbers game controls the costs of advertising for the advertisers.

18           116. Today's TV shows feed and thrive on showing blood, guts, terror, and  
19 destruction. It is unusual that The Walt Disney Co. and the other Defendants, who tout their  
20 reputation for family viewing shows (acceptable for children to view) would engage in a show  
21 with the name "Wife Swap" which has an implied sexual connotation to it.

22           117. The Defendants, named above, with their extensive experience in TV and movie  
23 production know precisely what to write, film, and distribute in theaters and on television that  
24 will catch the attention of the viewers. Large viewership means great advertising revenue and  
25 means "staying in business." The lives of the players and reality show actors are easily  
26 sacrificed.

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1           118. The Defendants named above, consciously and falsely made the minor child  
2 Alicia appear to millions of viewers to be "the most spoiled kid in America." Hence, this  
3 depiction was done with a wanton and reckless disregard of the consequences to her.

4           119. Many of the situations featured in the aforementioned episode were created by  
5 the Defendants RDF Media USA, Inc., the RDF Producers, the Walt Disney Co., Disney ABC,  
6 and Disney ABC Domestic, in order to portray the minor child and her parents in a false light.  
7 It became known to Plaintiff's parents that when they were not present at home during the  
8 filming involving their daughter Alicia, the RDF Producers with the approval of all the  
9 Defendants coached the minor child to give contrived responses to questions that were designed  
10 to further her persona as a spoiled, ignorant, and uneducated only child. Furthermore, video  
11 footage of Alicia from the television show was subsequently edited in by third parties and  
12 displayed on Defendants' websites with the added ugly and offensive content. Defendants knew  
13 or should have known that such editing would occur and subject Plaintiff to severe emotional  
14 distress.

15           120. The Defendants' portrayal of the minor child, Alicia, on the aforementioned show  
16 and further, resulting in various video footages being posted on the Defendants' (Google; Alta  
17 Vista; YouTube; and DOES 11-20) websites have been extremely upsetting and damaging to  
18 her. As a result, Alicia is under a therapist's and psychiatrist's care. This emotional distress  
19 experienced by her is of such quantity and enduring negative quality that she should not be  
20 expected to endure it.

21           121. The acts of the Defendants in the inappropriate airing of video footage, as alleged  
22 above, as well as the failure by the Defendants Google, AltaVista, and YouTube to immediately  
23 remove the inappropriate postings from their search engines, resulted in the minor child being  
24 ridiculed in the public eye.

25           122. The acts of the Defendants constitute extreme and outrageous conduct that is  
26 intolerable in any civilized society.

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1 123. The Defendants knew or should have known that their conduct as alleged herein  
2 would cause Alicia to suffer humiliation, mental anguish, and emotional and physical distress.

3 124. As a proximate result of the above-alleged disclosure, Plaintiff and her parents  
4 received harassing and threatening phone calls and letters (including death threats) and  
5 vandalism. These threats and public ridicule have been extremely upsetting for Plaintiff. The  
6 Plaintiff seeks compensation for her emotional distress inflicted upon her by the Defendants.

7 **NINTH CAUSE OF ACTION**

8 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

9 (As to RDF Media USA, Inc.; the RDF Producers; the Walt Disney Co.; Disney ABC; Disney  
10 ABC Domestic; and DOES 1-10)

11 125. Plaintiff incorporates by reference paragraphs 1 through 124 above as though  
12 fully stated herein.

13 126. The Defendants named above in filming the January 2, 2008 Wife Swap episode  
14 focused on the Plaintiff Alicia instead of the mother Karen Guastafarro who was "swapped" to  
15 the other home.

16 127. Karen Guastafarro had consented to participate in the production of an episode  
17 that showed how the swapped wives coped with the different family situations. Instead, the  
18 Defendants deceitfully shifted the focus of the show from the wife/mother participant to the  
19 activities of the minor child Alicia, who never expressly consented to be filmed to such an  
20 extent.

21 128. Plaintiff's parents were led to believe that an express object of the Agreement  
22 with the Defendants named throughout this complaint was their mental and emotional well-  
23 being, NOT what happened to their daughter and what the Defendants inflicted upon her,  
24 thereby breaching the Agreement as well.

25 129. The Defendants named above promised Alicia's mother that since her daughter  
26 was a minor, Alicia would be properly cared for during filming, mentioning on more than one  
27 occasion their connection to the Walt Disney Company and Disney's reputation for protecting  
28 families and minor children in their care during show production.

1           Nevertheless, abusing the trust of the Alicia and her parents, the Defendants manipulated  
2     the filming of the show and directed the minor child to answer certain questions in a way that  
3     depicted her in a false light. When the Defendants assured the Guastafellos that they will  
4     protect Alicia while she was in their care, control and custody during the filming, this gave rise  
5     to assumption of duty of care to a minor child such as it would be in a special relationship of  
6     teacher/student, guardian/minor, coach/team members, chaperone/minor children, etc... all  
7     within heightened duty of care. The Defendants and each of them assumed the duty of care  
8     towards the minor child willingly and even encouraged the parents to leave Alicia with them  
9     while they were filming her segments in the parents' absence. During the filming Alicia was  
10    left in their care, custody and control.

11           Plaintiff was reassured that the primary focus of the reality show "Wife Swap" was to be  
12    the wives. However, the Defendants focused on the minor child Alicia and depicted her in an  
13    improper manner resulting in humiliation and public ridicule, and severe emotional distress to  
14    her and her family. The above Defendants breached their duty of care to Plaintiff, and made the  
15    minor child the center of attraction by showcasing her to be spoiled, ignorant and an  
16    uneducated brat.

17           130. Had Karen Guastafello been told by the Defendants at the time of her signing the  
18    Agreement that the Wife Swap episode was going to switch its basic theme from featuring her  
19    to instead featuring her daughter Alicia, and that they were going to thrust Alicia into a  
20    character defamation situation, Karen Guastafello would never have signed the Agreement.

21           131. The Defendants, and each of them, negligently failed to exercise the proper  
22    degree of knowledge and skill, to avoid in particular, depicting the minor child in a highly  
23    exaggerated, inaccurate, and improper manner, which resulted in her being scorned in the  
24    public eye. The RDF Producers unfairly coached the minor child to answer questions in a  
25    particular manner, a group of adults convincing a minor that these were proper responses. By  
26    doing all of this the Defendants and each of them breached their duty of care.

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1           132. In fact, it turned out that the RDF Producers tried to and succeeded in eliciting  
2 responses from Alicia on camera that portrayed her to be spoiled, ignorant, and uneducated.  
3 Publicly humiliated, Plaintiff has been placed under a therapist's care due to the emotional  
4 distress and trauma she has had to endure resulting from the egregious acts of the adult  
5 Defendants toward her, a minor. It was foreseeable by breaching their duty of care to Alicia,  
6 they would cause here severe emotional distress. The producers and their bosses wanted nothing  
7 more than to use her to line their pockets with money and increase the ratings of Wife Swap.  
8 then to throw her away like yesterday's newspaper. The fact that they continue to air the same  
9 episode (more than any other episode in the series) shows that they prosper by continuing to  
10 inflict injury to the minor and in total reckless disregard for her welfare, best interest, rights,  
11 and personal well being.

12           They knew or should have known, that once this material was published and viewed by  
13 mainstream audience globally, it would tarnish Alicia's image and damage her psyche forever.  
14 This is a fact that no parent can deny, as some of them must have children of their own, that this  
15 was and is something that they would never have done to their own children but they willingly,  
16 in pursuit of money and ratings, did the very same thing to Alicia, a minor child. Had the  
17 Guastaferreros been told the truth about the extent of Defendants' manipulation and what they  
18 had coached Alicia to say, they would have never allowed Alicia to be exposed to this harm.  
19 The Guastaferreros were fooled, misrepresented to, lied to, and simply taken advantage of, all in  
20 the name of DISNEY. Defendants will bring to Court the extensive self-serving 23 page  
21 Agreement (See Exhibit "B") in single spaced type set, wanting to prove that Alicia's parents  
22 read and approved of the terms. Defendants in their self righteous, self serving defensive  
23 posture will additionally attempt to convince this Court that Alicia knew what she was getting  
24 herself into as she was involved in beauty pageants all her life. However, what these vile  
25 Defendants did to this child goes astronomically beyond any standard of decency, any  
26 reasonable contract, and flies in the face of the implied covenant of good faith and fair dealing  
27 with her parents. Certainly if there ever was a contract with Alicia, as RDF Media alleges and  
28 has referred to, but has refused to produce to Plaintiff's counsel in informal discovery, the

1 conduct of Defendant's went beyond the four corners of said contract. The law of contracts  
 2 makes any kind of contract with a minor either void or voidable and allows the minor to  
 3 disaffirm such a contract except for the necessities of life. This holds true especially if the  
 4 subject contract exploits the child, in the manner as Defendants have done herein and  
 5 perpetrated in such a bad faith. On July 31, 2008 during a conference call with Kirk Schenck,  
 6 President and General Counsel of RDF Media and his associate Ms. Miranda Wang,  
 7 Mr. Schenck informed and alleged Plaintiff's counsel, Majid Foroozandeh that Alicia had  
 8 independently signed a contract similar to the one signed by her parents. (See Exhibit "B" ).

9 133. As a direct and proximate result of such acts, Plaintiff Alicia Guastafarro has  
 10 sustained and suffered and continues to suffer emotional injuries including injuries to her  
 11 health. She has suffered and continues to suffer severe physical and mental pain and anguish in  
 12 connection therewith. The full extent of her injuries and damages has yet to be fully ascertained  
 13 and Plaintiff through her guardian will seek leave to amend this Complaint to allege the full  
 14 extent of such injuries and damages when they have been fully determined.

15 134. Plaintiff's parents previously caused to be served a notice of their intention to  
 16 commence this action on the Defendants RDF Media USA, Inc., the RDF Producers, the Walt  
 17 Disney Co., Disney ABC, Disney ABC Domestic, and the other named Defendants.

#### 18 PRAYER FOR RELIEF

19  
 20  
 21 WHEREFORE, the Plaintiff prays for judgment against the Defendants, and each of  
 22 them, as follows:

23 The Plaintiffs reserve the right to seek leave to amend the complaint for additional  
 24 damages, as damages are increasing daily:

- 25 1. For general damages in excess of \$25,000,000 or such other sum according to
- 26 proof;
- 27 2. For special damages according to proof;
- 28 3. For exemplary and punitive damages according to proof;

4. For reasonable attorneys fees according to proof;
5. For imposition of constructive trusts over the ill gotten gain by Defendants and all of them from commercial misappropriation of Plaintiff's likeness and image.
6. For injunctive orders against Defendants according to proof;
7. For costs of suit; and;
8. For such other relief as the Court may deem just and proper.

Dated: December 30, 2008

Respectfully submitted,

LAW OFFICES OF FOROOZANDEH, APC

By: 

Majid Foroozandeh, Esq.  
Attorney for the Plaintiff